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In re Application of:  
ALMOGY *et al.* :  
Application No. 09/641,137 :  
Filed: August 16, 2000 :  
Attorney Docket No. 49959-167 :

DECISION ON PETITION  
TO WITHDRAW HOLDING  
OF ABANDONMENT

This is a decision on the petition filed May 07, 2002, under 37 CFR § 1.181, to withdraw the holding of abandonment in the above application. No petition fee is required.

The petition to withdraw the holding of abandonment is **GRANTED**.

The application was held abandoned for the failure timely file a proper response to the Restriction Requirement mailed on September 17, 2001. A Notice of Abandonment was mailed on April 24, 2002.

Petitioner asserts that on November 08, 2001, a response to the Restriction Requirement was filed. In support of this assertion, petitioner has submitted a true copy of the response and a copy of the properly itemized postcard receipt bearing a date stamp of receipt in the United States Patent and Trademark Office of November 08, 2001, and acknowledging receipt of a response and a request for a one month extension of time.

A review of the application file record reveals that the above-identified response having been acknowledged as being received in the United States Patent and Trademark Office on November 08, 2001, is not of record in the application file and cannot be located. However, M.P.E.P. § 503 states that "A postcard receipt which itemizes and properly identifies the items which are being filed serves as *prima facie* evidence of receipt in the PTO of all the items listed thereon on the date stamped thereon by the PTO." Accordingly, it is concluded that the response was timely received in the PTO but lost after receipt thereof. A further review of the application record reveals that fee required for one month extension of time, was processed by the Office on November 08, 2001.

For the above stated reason, the petition is granted. The Notice of Abandonment is hereby vacated and the holding of abandonment withdrawn. The application is restored to pending

status.

The copy of the response submitted with the request to withdraw the holding of abandonment on May 07, 2002, is accepted since the response originally submitted was apparently lost.

The application file is being forwarded to the Technology Center 2800 support staff for processing the response. From there, the application will be forwarded to the examiner for taking appropriate action.

Inquiries regarding this decision should be directed to Clayton E. LaBalle at (703) 308-0519.



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